REMARKS

This amendment is intended as a full and complete response to the non-final Office Action mailed February 14, 2003. In the Office Action, the Examiner notes that claims 1-8 are pending, of which claims 1-8 stand rejected. The specification and drawings filed on March 30, 2002 have been objected to.

By this amendment, claims 1, 5, 6, and 7 have been amended and claims 2-4, and 8 continue unamended.

In view of both the amendments presented above and the following discussion, the applicants submit that none of the claims now pending in the application are non-enabling, anticipated or obvious under the respective provisions of 35 U.S.C. §§112, 102 and 103. Thus, the Applicants believe that all of these claims are now in allowable form.

It is to be understood that the applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

Drawings

The Examiner objected to the drawings. In particular, the Examiner has objected to the drawings "because VOD Server Element "02" in Figure 11 should be re-labeled to –1102– as it appears in the specification. Applicants' corrected FIG. 11 is attached hereto. In view of the attached drawing, Applicants request reconsideration and withdrawal of the objection to the drawings. Formal drawings will be provided when the application is allowed.

Specification

The Examiner objected to the specification. In particular, the Examiner indicated that the disclosure contained various informalities. Specifically, that element 901 in Figure 9 is not described in the specification; and further, that the specification referred to "Figure 1000" on page 25, line 16. Applicants have amended the specification, as

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indicated above. As such, Applicants submit that these objections no longer exist. Applicants respectfully request reconsideration and withdrawal of the objections to the specification.

Rejections under 35 U.S.C. §102

A.   Claim 1

The Examiner has rejected claims 1-2 and 5 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,801,753 to Eyer et al. ("Eyer"). Applicants traverse the rejections.

Eyer teaches the communication of database pages over an information network. Each of the database pages corresponds to a time slot over which events are available on the network. Schedule data for each event to be included in the interactive guide is inserted into the database page for the time slot during which the event is to be provided. Eyer also teaches that "schedule information for a current time period can be provided in a trickle data stream with future scheduling information may be provided in a demand stream." See Eyer at Abstract. The trickle data stream provides access to a database of "up-to date-current programming." See Eyer at column 5, line 62 to column 6, line 9. However, Eyer is silent with respect to the inclusion of a different demand-cast stream into a list of demand-cast stream due to a request by a terminal. Further, Eyer is also silent with respect the accessibility, by other terminals of the different demand-cast stream for as long as at least one terminal is associated with the different demand-cast stream.

Applicants' claim 1, recites in pertinent part:

"a list of demand-cast streams that are available in a transport stream being transmitted from the transport stream generator; and
a different demand-cast stream added to said list in response to a request by said terminal, said different demand-cast stream being accessible from said list as long as at least one other terminal is associated with said different demand-cast stream."

Applicants' claim 1 recites an embodiment of the invention is directed to a digital message from a transport stream generator to a terminal. In this embodiment, a demand-cast stream not included in the current list of demand-cast streams is requested by a terminal. As a result of the terminal request, the terminal is associated with the demand-cast stream. In addition, the demand-cast stream is included in the list

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and made available to other terminals. If the other terminals access the demand-cast then they are also associated with the demand-cast. The demand-cast is part of the list as long at least one terminal is associated with the demand-cast.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Clr. 1984)(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). As Indicated above, Eyer does not teach the Inclusion of a different demand-cast stream Into a list of existing demand-cast streams, accessible by other terminal, as long as at least one terminal is associated with the different demand-cast stream. As such, Eyer fails to disclose each and every element of the claimed invention.

Applicants submit that independent claim 1 is not anticipated by Eyer. In addition, dependent claim 2 (which depends from independent claim 1) contains the features of claim 1 and is also not anticipated at least for its dependency upon claim 1. Therefore, Applicants request reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claims 1 and 2.

B.   Claim 5

The Examiner rejected claim 5 as being anticipated by Eyer. Applicants traverse the rejection.

Applicants have provided an explanation of the Eyer patent, in Section A herein. That explanation is also applicable with respect to the rejection of claim 5. For brevity, the explanation of Eyer will not be repeated.

Applicants' claim 5, positively recites:

"A method for communicating from a transport stream generator to a terminal, the method comprising:
sending to the terminal a list of demand-cast streams that are available in a transport stream being transmitted from the transport stream generator, wherein said list comprises a different demand-cast stream requested by the terminal said different demand-cast stream being accessible from said list as long as one other terminal is associated with said different demand-cast stream."

Applicants claim 5 is directed to a method of communicating from a transport stream generator to a terminal. The transport stream generator sends a list of demand-cast streams to the terminal. The list includes a different demand-cast stream requested by the terminal said different demand-cast stream being accessible from said list as long as one other terminal is associated with said different demand-cast stream.

As indicated in Section A, Eyer does not teach or disclose the of inclusion of a different demand-cast stream into a list of existing demand-cast streams, accessible by other terminal, as long as at least one terminal is associated with the different demand-cast stream. Eyer does not contain each and every element in Applicants' claim 5. As such, Eyer does not anticipate Applicants' claim 5. Therefore, Applicants request reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claim 5.

C.   Claim 6

The Examiner has rejected claims 6-8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,461,415 to Wolf et al. ("Wolf"). Applicants traverse the rejection.

Wolf discloses a method and system for pausing and resuming a program. When a video server receives a performance request from one of the viewers for showing a particular video, it identifies and reserves a look-ahead stream. The look-ahead stream is another video stream which is scheduled to become available after a predetermined time period. When the video is commenced, a common data stream for the video is concurrently transmitted from the video server to reception equipment at the viewers' locations. When the video server receives a pause request and then a subsequent resume request from one of the viewers, it transmits the video via the look-ahead stream instead of the common data stream. The look-ahead scheduler attempts to conserve server resources by combining requests for the same movie that are close together in time while allowing each client to individually pause and resume. Wolf is silent with respect to the sending communications for the purpose of associating the terminal with demand-cast stream and determining whether there are any other terminals associated with the demand-cast stream.

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Applicants' claim 6 positively recites:

A method for communicating from a terminal to a session manager, the method comprising:

sending to the session manager an acquisition message when the terminal acquires a demand-cast stream that is available <u>for association of said terminal with said demand-cast stream by said session manager;</u>

sending to the session manager a release message when the terminal releases the demand-cast stream <u>for dis-association of said terminal with said demand-cast stream by said session manager and a determination by said session manager whether there are other terminals associated with said data stream</u>; and

sending to the session manager a request message when the terminal needs to acquire a demand-cast stream that is unavailable.

Applicants send messages to the session manager so that the session manager can determine if a demand-cast stream is in use by a terminal. Optionally, if the demand-cast stream is not in use by a terminal then the session manager can remove the demand-cast stream from transmission until requested by another terminal.

Wolf does not does not disclose sending messages towards the session manager for the purpose of "<u>association of said terminal with said demand-cast stream by said session manager</u>" or for "<u>dis-association of said terminal with said demand-cast stream by said session manager and a determination by said session manager whether there are other terminals associated with said data stream</u>" as claimed by Applicants. Therefore, Wolf does not contain each of the features recited by the Applicants. As such, Applicants request reconsideration and withdrawal of the anticipation rejection of claim 6.

D.   Claim 7

The Examiner rejected claims 7 and 8 as being anticipated by Wolf. Applicants traverse the rejection.

An explanation of Wolf has been given by Applicants in section C herein. This explanation is relevant with respect to the rejection of claims 7 and 8. For brevity, Applicants will not repeat the explanation of Wolf already given. In addition to those arguments presented against Wolf, Applicants wish to direct the Examiner's attention to the fact that Wolf is time dependent. Specifically, Wolf "attempts to conserve server resources by combining request for the same move that are close together in time ...."

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As such, Wolf requires that these requests be made ahead of time so that the transmission of the demand-cast stream.

Applicants' claim 7, recites in pertinent part:

"sending to the transport stream generator a stream requested message when a terminal requests a demand-cast stream that is not currently provided by the transport stream generator, for acquiring the demand-cast stream for the terminal, associating the terminal, and other terminals that request the demand-cast stream, with the demand-cast stream."

In Applicants' invention, once a request is made for a demand-cast stream that demand-cast stream is associated with the requesting terminal. In addition, that demand-cast stream is made available to subsequent requestors. The subsequent requestors are then associated with the demand-cast stream. The demand-cast stream is transmitted as long as there is at least one terminal associated with the demand-cast stream.

As explained above, Wolf does not transmit the demand-cast stream, based upon the initial request by a single terminal, as long as there is at least one terminal associated with the demand-cast stream. As such, Wolf does not anticipate Applicants' claim 7. In addition, dependent claim 8 (which depends from claim 7) is also not anticipated by Wolf at least for its dependency upon claim 7.

As such, the Applicants submit that claims 7-8 are not anticipated and fully satisfy the requirements under 35 U.S.C. §102(b) and are patentable thereunder. Therefore, the applicants respectfully request that the rejection be withdrawn.

Rejections Under 35 U.S.C. §103

The Examiner has rejected claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over in view of U.S. Patent No. 6,314,569 to Chernock et al. (hereinafter "Chernock").

Applicants have presented arguments in section A herein with respect Eyer. For brevity, the deficiencies of Eyer will not be repeated. In view of those deficiencies, Applicants respectfully submit that Eyer does not teach or suggest modifying its disclosure in such a way resulting in Applicants' claim 1. In addition, (claims 3 and 4

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which depend from claim independent claim 1) are also non-obvious at least for their dependency upon claim 1.

To support the §103 rejection, the Examiner cites Chernock. Applicants submit that the addition of Chernock does not correct the deficiencies of Eyer. Chernock discloses a method of authoring video/audio content. Chernock teaches that automatic object recognition may be incorporated into the invention to simplify the authoring process. Presuming arguendo that Chernock discloses "the inclusion in a transport stream of non-video and non-audio streams, by the use of 'private data' streams," Chernock is silent with respect to the remaining features of claims 3 and 4 (which also include the features of independent claim 1 from which they depend either directly or indirectly). In addition, Chernock fails to teach or suggest modification of its disclosure in such a way resulting in Applicants' invention. Further, Eyer and Chernock seek address different problems from one another and do not solve the problem that Applicants' Invention addresses. As such, Applicants respectfully submit that Eyer or Chernock either individually or in any reasonable combination to not render Applicants' invention obvious.

Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

As such, Applicants submit that claims 3 and 4 are not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

Thus, the Applicants submit that none of the claims, presently in the application, is anticipated or obvious under 35 U.S.C. §§102 or 103 respectively. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested

that the Examiner telephone <u>Eamon J. Wall, Esq.</u> at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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